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By: **Delegates Gordon, Barve, Doory, Krysiak, and Simmons**

Introduced and read first time: January 16, 2003

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law - Candy-Like Products Containing Nicotine - Minors**

3 FOR the purpose of adding candy-like products that contain nicotine to the definition  
4 of tobacco products prohibited to be sold to or possessed by a minor; and  
5 generally relating to candy-like products that contain nicotine.

6 BY repealing and reenacting, with amendments,  
7 Article - Criminal Law  
8 Section 10-101  
9 Annotated Code of Maryland  
10 (2002 Volume)

11 BY repealing and reenacting, without amendments,  
12 Article - Criminal Law  
13 Section 10-107 and 10-108  
14 Annotated Code of Maryland  
15 (2002 Volume)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article - Criminal Law**

19 10-101.

20 (a) In this part the following words have the meanings indicated.

21 (b) "Distribute" means to:

22 (1) give, sell, deliver, dispense, issue, or offer to give, sell, deliver,  
23 dispense, or issue; or

24 (2) cause or hire a person to give, sell, deliver, dispense, issue or offer to  
25 give, sell, deliver, dispense, or issue.

1 (c) (1) "Tobacco product" means a substance containing tobacco OR  
2 NICOTINE.

3 (2) "Tobacco product" includes cigarettes, cigars, smoking tobacco, snuff,  
4 [and] smokeless tobacco, AND CANDY-LIKE PRODUCTS THAT CONTAIN NICOTINE.

5 (d) "Venereal disease" includes gonorrhea, syphilis, chancroid, and any  
6 diseased condition of the human genitalia caused by, related to, or resulting from a  
7 venereal disease.

8 10-107.

9 (a) This section does not apply to the distribution of a coupon that is  
10 redeemable for a tobacco product, if the coupon is:

11 (1) contained in a newspaper, magazine, or other type of publication in  
12 which the coupon is incidental to the primary purpose of the publication; or

13 (2) sent through the mail.

14 (b) (1) This subsection does not apply to the distribution of a tobacco product  
15 to a minor who is acting solely as the agent of the minor's employer if the employer  
16 distributes tobacco products for commercial purposes.

17 (2) A person who distributes tobacco products for commercial purposes,  
18 including a person licensed under Title 16 of the Business Regulation Article, may not  
19 distribute to a minor:

20 (i) a tobacco product;

21 (ii) a cigarette rolling paper; or

22 (iii) a coupon redeemable for a tobacco product.

23 (c) A person not described in subsection (b)(2) of this section may not:

24 (1) purchase for or sell a tobacco product to a minor; or

25 (2) distribute a cigarette rolling paper to a minor.

26 (d) In a prosecution for a violation of this section, it is a defense that the  
27 defendant examined the purchaser's or recipient's driver's license or other valid  
28 identification issued by an employer, government unit, or institution of higher  
29 education that positively identified the purchaser or recipient as at least 18 years of  
30 age.

31 (e) A person who violates this section is guilty of a misdemeanor and on  
32 conviction is subject to a fine not exceeding:

33 (1) \$300 for a first violation;

1           (2)     \$1,000 for a second violation occurring within 2 years after the first  
2 violation; and

3           (3)     \$3,000 for each subsequent violation occurring within 2 years after  
4 the preceding violation.

5       (f)     For purposes of this section, each separate incident at a different time and  
6 occasion is a violation.

7 10-108.

8       (a)     In this section, "violation" has the meaning stated in § 3-8A-01 of the  
9 Courts Article.

10       (b)     This section does not apply to the possession of a tobacco product or  
11 cigarette rolling paper by a minor who is acting as the agent of the minor's employer  
12 within the scope of employment.

13       (c)     A minor may not:

14           (1)     use or possess a tobacco product or cigarette rolling paper; or

15           (2)     obtain or attempt to obtain a tobacco product or cigarette rolling  
16 paper by using a form of identification that:

17               (i)     is falsified; or

18               (ii)    identifies an individual other than the minor.

19       (d)     (1)     A violation of this section is a civil offense.

20           (2)     A minor who violates this section is subject to the procedures and  
21 dispositions provided in Title 3, Subtitle 8A of the Courts Article.

22       (e)     A law enforcement officer authorized to make arrests shall issue a citation  
23 to a minor if the law enforcement officer has probable cause to believe that the minor  
24 is committing or has committed a violation of this section.

25       SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
26 October 1, 2003.